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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 7 August 2001, at 3 p.m.

Chairperson: Mr. WEISSBRODT

later: Mr. PARK
(Vice-Chairperson)

later: Mr. WEISSBRODT
(Chairperson)

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The meeting was called to order at 3 p.m.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 4) (continued)

(E/CN.4/Sub.2/2001/10, 11 and Add.1, 12 and Add.1, 13, 14, 33; E/CN.4/Sub.2/2001/NGO/3, 11, 17-22; E/CN.4/Sub.2/2001/CRP.1; E/CN.4/Sub.2/2001/WG.2/WP.1 and Add.1-3; E/CN.4/2001/51-53, 54 and Add.1 and Corr.1, 62/Add.2, 148; E/CN.4/Sub.2/2000/12, 13)

1. The CHAIRPERSON noted with regret that the Sub-Commission was faced with a serious problem in that a great many documents were available only in the original language and not in all the working languages. That was the case, in particular, with the report on globalization and human rights, which was to be introduced at the current session, but which unfortunately had so far been issued only in English.

2. Ms. WARZAZI pointed out that the rules of the General Assembly were not being followed. In fact, most documents were issued only in English. She would like the secretariat to compile a list of available documents and the languages in which they had been issued.

3. Mr. ALFONSO MARTINEZ, supported by Mr. KARTASHKIN and Mr. PINHEIRO, expressed indignation at the Sub-Commission's working conditions. He pointed out that it was very difficult for the experts to work with documents written in a language which was not their own.

4. Mr. BALTI (Tunisian Association for Self-Determination and Solidarity (ATLAS)) said that his organization's main objective was to combat poverty, particularly in rural areas which were difficult of access, by setting up and implementing integrated projects. The approach taken was based on the principles of participation by the beneficiaries, group solidarity and permanent dialogue. That type of partnership was a practical form of genuine mobilization and militancy in the promotion of human rights. It should be remembered that poverty had an impact not only on the enjoyment of economic, social and cultural rights, but also, because of the interdependence of human rights generally, on the enjoyment of civil and political rights.

5. The globalization process highlighted on a daily basis the important role played by the rich countries in the decision-making that shaped both today's world and the world of tomorrow. Such countries, which were so scrupulous about democracy and human rights everywhere in the world, should work towards greater equity, tolerance and solidarity. Integrated and sustainable development should not be to the benefit of some and to the detriment of others. Exclusions and hegemonies were by definition contrary to the principles which governed human rights. In that regard, it should be remembered that Tunisia had called for the creation of a global solidarity fund to combat poverty, an initiative which had been favourably received by the international community. The Sub-Commission, together with other United Nations organizations, should devote itself to establishing that fund.

6. The fight against poverty would require the implementation of consistent and concerted local and international strategies aimed at sustainable and shared development. The development and liberalization of international trade could have positive results for the least developed and emerging countries. However, within the framework of their various regional,

economic or political groups, the world Powers should not simply defend their own interests, but should also support initiatives designed to share out prosperity between the various countries of the world; the same applied to peace and stability and hence to the protection of human rights. It should not be forgotten that the opportunities offered by the opening up and development of world trade should be used to promote the well-being of individuals. International organizations, such as the World Trade Organization, where major decisions in the field of world trade were taken, should therefore take human rights standards into account in their work.

7. Mr. Park, Vice-Chairperson, took the Chair.

8. Mr. VIARD (International Movement ATD Fourth World) recalled that, in resolution 2001/31 on human rights and extreme poverty, the Commission on Human Rights had requested the Sub-Commission to investigate the need for developing guiding principles on the implementation of rules and criteria relating to human rights in the context of combating extreme poverty. Such guidelines could contribute to the elimination of poverty inasmuch as existing instruments were inadequate. They would make it possible to affirm that poverty constituted a violation of human rights and to promote a global human rights approach at the national and international levels.

9. In its resolution, the Commission had requested the Sub-Commission to take account of work being carried out in other forums. The International Movement ATD Fourth World believed that it would be useful also to take into consideration work being done in partnership with persons living in extreme poverty. The efforts, sufferings, experiences and aspirations of such persons should be known and taken into account.

10. The guiding principles which the Sub-Commission was being called on to consider should also be designed to make the general public aware of the consequences of extreme poverty, in order to combat prejudice and discriminatory practices. In addition, since extreme poverty also existed in the richest countries, the guiding principles should be directed at all nations, whatever their political, economic, social or cultural situation. Lastly, they should be binding in character and should provide for appropriate monitoring mechanisms.

11. Ms. TALBOT (World Federation of Trade Unions) said that the realization of economic, social and cultural rights required sustainable development, which would create wealth and prosperity. Individuals and groups should be able to live in an environment in which they could best exploit their potential and benefit from scientific and technological progress. It was disheartening to note that globalization had degenerated into a means of exporting western models to traditional societies which were unmindful of their heritage. New communication techniques had helped to export models of mass consumption and mass aspirations to societies which did not even have the resources to satisfy the basic needs of their people.

12. In addition, globalization, or rather transnationalization, of the production process distorted the labour market. While developed countries were opposed to the free mobility of workers from poor countries, the multinationals of those same developed countries were using those same workers in developing countries to reduce their production costs, increase their market share and boost their profits. Consumerism was flourishing, while hardly any of the profits earned by multinationals flowed back into the creation of infrastructure in the developing

countries. Very often, the political elites in those countries benefited from the globalization of production and were kept in power because of it while at the same time inequalities were increasing, to the detriment of the poorest.

13. In social and cultural terms, the process threatened the traditional social and religious values which held societies together. The influx of luxury goods, for which demand was created artificially, aroused expectations that poor families could not meet. Crime was increasing because there were some who could not resist the desire to reap the benefits of a high standard of living for themselves and the unfettered pursuit of wealth had resulted in family tensions and in the breakdown of traditional systems of solidarity. In addition, new means of communication, which could have been powerful tools for development, were being used to propagate false and even dangerous values in many countries, as was shown, for example, by the development of pornography, particularly on the Internet.

14. If globalization was to have a positive impact in terms of human rights and the right to development, then care should be taken to ensure that it was not motivated solely by profit. Globalization should lead to the creation of country-specific programmes backed by adequate resources and designed to increase the overall well-being of society. Such programmes should not be developed by exorbitantly paid experts from the richest countries, but should be defined in consultation with grass-roots activists who saw just how the poor lived and how globalization affected them.

15. Ms. LENNOX (Minority Rights Group International) said that a preparatory meeting for the seminar on cooperation for the better protection of minorities, which was to be held in Durban in September 2001, had been organized in July by Minority Rights Group International with the support of the Working Group on Minorities and the Office of the High Commissioner for Human Rights. At that meeting, the participants had formulated a number of recommendations, which would be brought to the attention of the Durban seminar. One of those recommendations dealt with the implementation of the International Development Goals.

16. The agreement on the International Development Goals was one of the most important steps that had been taken in recent years towards the realization of the right to development. The seven goals had been widely endorsed by the international community and were central to development cooperation strategies up to the year 2015. Even though they had not been formulated in human rights terms, they could easily be correlated with existing human rights provisions. The goal of halving extreme poverty by the year 2015, for example, could be considered in the light of the right to an adequate standard of living. However, the goals did not refer to minorities or indigenous peoples which were often among the poorest members of society.

17. The root cause of the poverty of those groups lay in the persistent discrimination and social and economic exclusion from which they suffered. No strategy for achieving the International Development Goals would succeed in ending that discrimination unless specific measures were taken to enable minorities and indigenous people to benefit equally from development. That was why participants in the preparatory meeting had recommended that Governments and development agencies should recognize explicitly that certain minorities and

indigenous peoples might suffer discrimination and socio-economic exclusion; collect and analyse data with a view to studying that problem; and implement strategies and national programmes to benefit those groups.

18. Minority Rights Group International recommended, for its part, that the rights of persons belonging to minorities and the rights of indigenous peoples should be taken into account in policies defined by Governments and multilateral and bilateral development agencies for achieving the International Development Goals; that the right of indigenous peoples and minorities to participate in the formulation and implementation of country strategies and development programmes should be guaranteed; that indicators for measuring progress towards the achievement of the International Development Goals should be revised so as to include data on ethnic, religious and linguistic groupings; that the consequences of development programmes for minorities and indigenous peoples should be evaluated and programmes with a negative impact revised; and that any future study carried out by the Sub-Commission on economic, social and cultural rights and the right to development should take account of the situation of minorities and indigenous peoples.

19. Ms. LEGRAND (Fraternité Notre Dame) said that her organization, which worked on behalf of the poor in almost every continent in the world, had noted, like others, that human rights were being violated not only in countries suffering from poverty, or extreme poverty but also in so-called free, civilized European countries where human rights were said to be respected. While the least developed countries were increasingly affected by hunger, illiteracy and mortality, in the most developed countries, entire populations suffered from unemployment, drug abuse was spreading and the number of homeless was increasing. The shameful exploitation of children, clandestine work, prostitution, the sale of body parts and the collapse of the family unit all reflected the decline of society in the twenty-first century as a result of the loss of spiritual values.

20. Fraternité Notre Dame proved by its activities on the ground that it was possible to help the poorest out of their poverty. In many countries, Catholics unfortunately took a narrow-minded, sectarian attitude to any kind of belief or expression different from their own and sometimes even resorted to pressures and to religious persecution. However, it was only by respecting differences and by showing a spirit of solidarity without distinction as to race, sex, class or belief that it would be possible for men of goodwill to unite in eradicating poverty worldwide.

21. Mr. Weissbrodt resumed the Chair.

22. Mr. GUISSÉ, introducing his preliminary report on the question of drinking water, said he regretted that the Commission on Human Rights had not adopted the Sub-Commission's recommendation that a complete study on the question should be undertaken. Rapporteurs, experts and Member States of the United Nations should be made aware of the fact that the problem of water affected not only concerned third world countries, but mankind as a whole. Drinking water was a vital resource for mankind and access to it was a fundamental human right, which was closely linked to other human rights enjoyed by individuals. However, 1.5 billion persons had no access to drinking water and, according to WHO estimates, 80 per cent of

diseases were transmitted by contaminated water. In addition, it was thought that, between now and the year 2025, nearly 3 billion individuals would suffer from water shortages. In fact, the world's supply of fresh water accounted for only 3 per cent of the total volume of water resources, but that supply was needed for all human activities. The multisectoral dimension of the use of water resources in the context of socio-economic development should be recognized. Geographical and socio-economic inequities led to poor management of water resources, so much so that, in certain countries, only 20 per cent of the rural population had satisfactory water quality.

23. The problem of water was universal and close cooperation be'ween all nations of the world was thus essential. The obligation of States to cooperate with one another had first been established in the Charter of the United Nations and then stated in more detailed and explicit terms in numerous international instruments. To request countries to collaborate in the realization of the right to drinking water was a matter of common sense, since the entire human race was under threat.

24. It was true that water was a commodity, but it would be detrimental to make it entirely subject to market forces. All individuals, including the poorest, should be able to have access to water at reasonable prices. Currently, however, water supplies in Africa were on the point of being privatized by transnational corporations solely for profit purposes. Control by a private company of water, power and communications in a country reduced that country's sovereignty to nothing. It was for the State to take steps to preserve its sovereignty in that area, as in others.

25. Ms. WARZAZI, supported by Ms. HAMPSON, Ms. MOTOC and Mr. KARTASHKIN, said she was very disappointed to note that the Commission on Human Rights had not authorized the study on the relationship between enjoyment of economic, social and cultural rights and the promotion of the realization of the right to drinking water and sanitation which the Sub-Commission had been intending to undertake. The Commission on Human Rights was composed of 53 countries, the majority of which were developing countries. It was incomprehensible that the representatives of those countries had not argued in favour of such a study, the subject of which was of more concern to them than anyone. It was also disconcerting that those representatives had not attended the informal meetings at which questions as important and decisive as the one raised by Mr. Guissé had been considered. Strategic and geopolitical problems, as well as problems of poverty, were of direct concern to developing countries. A study on the question of water would make a valuable contribution to the solution to the problems of such countries.

26. Mr. MOTOC recommended that another resolution on the matter should be submitted to the Commission.

27. The CHAIRPERSON suggested that the resolution on the question of water should be submitted to the Commission on Human Rights at its one-day informal session in September.

28. He invited the two Special Rapporteurs, Mr. Oloka-Onyango and Ms. Udagama, to introduce their progress report on globalization and human rights.

29. Mr. OLOKA-ONYANGO said that the report was a follow-up to several documents on the subject and on related questions which had been submitted to the Sub-Commission in recent years. The latest of them was the preliminary report on globalization and its impact on the full enjoyment of all human rights, which the two Special Rapporteurs had submitted to the fifty-second session of the Sub-Commission.

30. On the subject of globalization, he shared the concerns of the winner of the Nobel Prize for economics, Mr. Amartya Sen, who had said that the problem was not so much the globalization process itself, but the marginalizing and discriminatory manner in which it was being applied. That was why the Special Rapporteurs had focused in the report on the tensions and complementarities existing between international economic law, on the one hand, and international human rights law on the other, since those two regimes were central to the debate on globalization.

31. In the context of that debate, they had paid particular attention to three broad areas: globalization and intellectual property rights, with a special focus on the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS); the dispute resolution mechanism in force at the World Trade Organization (WTO); and the programmes being implemented by multilateral institutions (IMF and the World Bank) to combat poverty.

32. The recognition of intellectual property rights was not new. However, what had serious implications for the protection of human rights was the fact that commercial interests could assert those rights through the WTO, to the detriment of the needs and interests of the population in general. The questions that arose in that regard were the following: were the guarantees written into the TRIPS Agreement sufficient to give effective protection to human rights, particularly when the Agreement was applied in developing countries? Was the Agreement clear in the legal sense, i.e. should it be interpreted narrowly or very broadly? Was there a danger that the economic and political pressures exerted in bilateral relations might influence the way in which countries reacted to that question? How was a proper balance to be struck between the rights of the individual and the rights of the community, for example, the rights of indigenous peoples in relation to their traditional knowledge? Since intellectual property rights sometimes involved the exercise of monopoly control, what were the implications of that control for biodiversity and the rights of farmers? Lastly, were intellectual property rights, notably in respect of drugs, compatible with the right of peoples to health? The debate on the right to health should not be limited to the question of intellectual property rights, but should include the wider question of globalization, one aspect of which was the privatization of hospitals and all that that implied in terms of increased health-care costs.

33. With regard to the New Poverty Agenda adopted by the multilateral institutions it should be recognized that that programme contained certain number of ambiguities. It might even be asked whether it was not simply a new way of reintroducing conditionality in another form. The question would not arise if one could be certain that programmes implemented by IMF and the World Bank to reduce poverty really took human rights into account. In other words, the crux of the matter was whether provisions relating to human rights, especially as contained in the Covenants, were applicable to those institutions.

34. Ms. UDAGAMA said that the WTO dispute settlement mechanism should play a key role in striking a balance between the logic of the market and the protection of human rights. She referred in particular to the possibilities arising from different interpretations of article XX of the General Agreement on Tariffs and Trade (GATT) and the exceptions provided for in the TRIPS Agreement. If that dispute settlement mechanism was to be viable, it should have the confidence of all its members, whatever their economic weight, and it should be accessible, representative, impartial, independent and transparent. Indeed, it was to be expected that those characteristics would be found in any body with adjudicative powers. Unfortunately, it was doubtful whether the WTO system did in fact possess all those attributes.

35. The first subject of concern related to the fact that members of the dispute settlement panels were not experts chosen for their professional competence and remunerated by WTO, but could well be government representatives or members of the WTO secretariat. That situation had given rise to doubts as to the impartiality of a system under which it was expected that justice must not only be done, but must be seen to be done. That was why the Special Rapporteurs recommended that members of the dispute settlement panels should be professionals appointed and remunerated by WTO.

36. The representativity of the panels also raised a problem, in that most of their members came from developed countries. There was need not only for the South to be better represented, but also for all points of view to be represented, in particular the point of view of human rights defenders and environmental activists.

37. Accessibility to the settlement system was also essential. Statistics showed that, hitherto, developing countries had represented only one third of complainants. There were a number of reasons for that situation, including the lack of knowledge in developing countries of the WTO system and the very high fees charged by international law firms. The provision made for legal aid in the Dispute Settlement Understanding was totally inadequate. It was absolutely essential that developing countries should have the resources, technical and otherwise, to access the dispute settlement system.

38. Lastly, the lack of transparency of the system was extremely troubling. As a rule, the panels held their meetings in private and their members delivered their opinions anonymously. The WTO General Council had begun to look into that question. It was essential that civil society should be able to participate in WTO's activities and, in particular, in the dispute settlement system. The recent tragic events in Genoa had shown that the concerns of civil society about the trading system represented by WTO were genuine and that the monolithic regime that now existed would, if it was to endure, have to benefit mankind as a whole and not only a handful of countries.

39. In conclusion, she considered that the Bretton Woods institutions and WTO had to acknowledge that they too were bound to respect international human rights norms. That was the issue that the Special Rapporteurs hoped to address in detail in the final part of their report, which would be submitted the following year.

40. Mr. EIDE said the debate on the right to development was usually held at too general a level and there was need to tackle the problem of inequalities, first within States and subsequently at the international level. In particular, there was an increasing trend towards the feminization of poverty, which had internal as well as international causes. Women were victims of discrimination in matters of access to property, credit and inheritance. In many regions of the world, they worked in agriculture much more than men and yet their right to land was considerably more limited. In addition, their right to reproductive health was often neither recognized nor protected.

41. He commended the quality and objectivity of the study by the Special Rapporteurs and welcomed the important contribution which it made to the dialogue recently established between civil society and those responsible for macroeconomic decisions, following the mass mobilization of civil society against globalization.

42. The Special Rapporteurs had focused attention on the crucial question of the tension between international economic norms and international human rights norms. They had shown that the former were governed by the logic of macroeconomic imperatives and were based on a belief in the benefits of globalization, whereas the second were founded on respect for human dignity. From that arose two diametrically opposed concepts of development: economic growth, on the one hand, and human development, on the other. Since multilateral institutions were composed of States, they were bound by those States human rights obligations, and were required at the very least to do nothing to prevent those States from fulfilling their obligations. However, it was more difficult to determine whether they had an obligation to protect and implement human rights. That was a matter which deserved close examination and he fully supported the proposal that guidelines on the issue should be formulated.

43. The Special Rapporteurs had paid particular attention to the role of multilateral institutions in combating poverty. They had noted that shock tactics such as structural adjustment programmes were now being abandoned and that symbolic commitments to poverty reduction were now being made, as shown by the debt reduction initiatives taken by the IMF. While those efforts were encouraging, the Sub-Commission should remain vigilant, since the macroeconomic point of view still prevailed. It would also be useful to make a close study of the very troubling issue of the General Agreement on Trade in Services and the question of WTO's role in the field of agriculture, which had affected the right to food and the livelihoods of small farmers, many of whom were women.

44. Lastly, the multilateral institutions should support rather than undermine the efforts of States in the respect of human rights protection. It must therefore be ensured that the resolution which would be drafted in the follow-up to the progress report emphasized the establishment of mechanisms to guarantee that human rights were fully taken into account in the implementation of instruments such as the TRIPS and GATTS agreements.

45. Mr. KARTASHKIN said globalization was an inevitable phenomenon which had positive effects globally not only on economic, social and cultural rights, but also on civil and political rights. The crucial question was how to combat the negative effects of globalization and how to strengthen its positive influence. In that regard, it would be useful if the Special Rapporteurs, Ms. Udagama and Mr. Oloka-Onyango, could draft a Sub-Commission resolution which would

be submitted to the Commission on Human Rights and summarize the conclusions of their study and contain recommendations on the measures to be taken. Indeed, they would be the ones best placed to draft such a resolution.

46. Mr. PARY (Indian Movement to Tupay Amaru) said that the chief victims of globalization and of the measures imposed by the World Bank on developing countries were indigenous peoples. While he was aware that the Sub-Commission's main role was to prepare studies, he nevertheless regretted that its debates were still very theoretical, especially with regard to the problem of water, and he invited the experts to visit the areas concerned in person. They could thus see for themselves, for example, that certain indigenous peoples on the high plateaux of Bolivia were reduced to drinking rainwater from puddles, together with their livestock. He asked what the Sub-Commission was planning to do to change the irrational world economic order into a rational and more equitable order.

47. Ms. HAGEN (International Federation of University Women) welcomed the comments made by Mr. Eide on the feminization of poverty and would encourage the authors of the proposed draft resolution to include in it a recommendation that the data contained in United Nations documents should be disaggregated by age and sex so that more detailed information could be made available on sex-based discrimination, which increased the vulnerability of women suffering from poverty.

48. Mr. LOUTFY (Observer for Egypt) asked the Sub-Commission how his country could reconcile the obligations it had assumed under international instruments, such as the International Covenant on Economic, Social and Cultural Rights, with the structural reforms imposed on it by multilateral institutions.

49. Ms. PARKER (Minnesota Advocates for Human Rights) said the document prepared by the Special Rapporteurs was of great interest. She regretted that it had not been possible to make it more widely accessible and proposed that ways should be found to disseminate it more widely. Perhaps a different type of presentation than that of United Nations documents could be found.

50. Mr. TAHIR (Pax Romana) said that questions should be asked about the place of mankind in the globalization process. Multilateral organizations took a resolutely macroeconomic approach, whereas they should concentrate on the microeconomic level and make human dignity central to their concerns. In practice, that meant that what was important was not the successful operation of macroeconomic mechanisms, but the question whether, for instance, farmers were fairly remunerated for their work.

51. Mr. NARANG (Indian Council of Education) asked whether the Sub-Commission was trying to see to it that WTO took account of studies such as the one compiled by the Special Rapporteurs and whether it was urging that body to concern itself with the realization and protection of human rights. He pointed out that the discussion was taking place at a time when access to the TRIPS Agreement and to WTO was becoming even more difficult.

52. Mr. BRANCH (International Educational Development) said he was not sure that globalization must necessarily be neo-liberal in nature. To think of globalization exclusively in such terms involved the risk of reducing action to combat it to a purely defensive strategy,

designed merely to water down its worst effects. He therefore proposed that an in-depth study should be made of the economic principles underlying globalization, so that, where human rights protection was concerned, the multilateral institutions should no longer be sole masters of the situation.

53. Mr. OLOKA-ONYANGO, replying to the comments made, said he shared the view that the multilateral institutions should integrate human rights into their operations. There was no question of endorsing globalization in its current form, but neither should it be condemned wholesale. Globalization was a fact and the new technologies, without which civil society would be unable to combat the negative aspects of that same globalization, were the best illustration of it. Without the Internet, it would not have been possible to mobilize against the IMF. What was crucial was to ensure that multilateral institutions such as the IMF agreed to change their language or, in other words, agreed to move from an exclusively market-oriented approach to one based on human development.

54. In reply to the observer for Egypt, he agreed that States were in fact abdicating their responsibilities when, in the context of their negotiations with multilateral institutions, they did not mention their own obligations under the international human rights instruments to which they had become parties. Unfortunately, realpolitik often played a role in such matters and it should also not be forgotten that the IMF imposed the same basic criteria on all countries. It was therefore for the developing countries themselves to see how they could best impress their points of view on such institutions.

55. Another observer had rightly pointed out that the presentation of the report left a great deal to be desired. That presentation could certainly be reviewed in order to make the report more accessible. While he did not know what the real impact of such a report might be, he thought that it was important to consider ways of disseminating its contents more widely.

56. The very important question of the feminization of poverty and the marginalization of women in general had been raised. There was no doubt that steps needed to be taken, in the form of positive actions, not only at the national and local levels but also internationally.

57. Ms. UDAGAMA thanked Mr. Eide for having raised the question of the human rights obligations of multilateral institutions. There was no doubt that that subject should be studied in depth. As the observer for Egypt had indicated, what was at issue was how to reconcile the obligations of States and economic imperatives. That question was very difficult to answer and it was being looked at by the treaty-monitoring bodies. WTO itself was not indifferent to the question. In that connection, she was pleased to announce that, following the preliminary report by the Special Rapporteurs, a dialogue had been established between the Sub-Commission and WTO. There was a need to expand that dialogue and, in particular, to insist on transparency where multilateral institutions were concerned. Such transparency should be a binding obligation.

58. Mr. EIDE said he would like the Sub-Commission to study the question whether multilateral institutions were required not only to respect human rights, but to protect them. Another problem was how to raise the question of human rights protection without involving conditionality. The World Bank directive concerning indigenous populations could be

considered to some extent as a form of protection against the State. He therefore feared that such protection might have negative consequences, in that it could lead to interference with national policies.

59. Mr. BENGOA recalled that other studies had been carried out within the framework of the Sub-Commission on the effects of political and economic changes on human rights, particularly by one of its Special Rapporteurs, Mr. Danilo Türk. He expressed regret that those studies were no longer available and proposed that the Sub-Commission should adopt a resolution requesting the United Nations to collect and publish them.

60. Mr. Van HOOF said that he shared the views of Mr. Oloka-Onyango and Ms. Udagama. He did not see why treaty obligations should not also be applicable to multilateral institutions. The question would, of course, have to be studied in greater depth. Concerning the views expressed by Mr. Eide on interference with national policies, he pointed out that such cases had already arisen.

61. Mr. OZDEN (Centre Europe - Third World) said that a distinction should be drawn between, on the one hand, the objective forces of technological change, which were the mainspring of globalization, and, on the other, policies which accompanied that globalization, which could be reversed if they proved detrimental to the well-being and social progress of mankind. The leading Powers were continuing to impose the "all-market " option through their Trojan horse, the World Trade Organization (WTO). WTO had serious effects on human rights, although its statutes made little or no reference to them. The current negotiations on the liberalization and privatization of services in fields such as health, education and the environment concerned fundamental human rights. In addition, WTO had extended the scope of its action to patents, which were used to pillage the resources of countries of the South, where 80 per cent of patents were held by foreign companies, primarily transnational corporations. The international monetary system also imposed constraints which were incompatible with the enjoyment of human rights. That was why the Sub-Commission's experts should continue their study of the role and impact of the Bretton Woods institutions and WTO on the realization of economic, social and cultural rights. In addition, the Working Group on the working methods and activities of transnational corporations should draft a position paper aimed at establishing a binding international legal framework for such corporations. The Working Group should also make an inventory of existing agreements in relation to the activities of those corporations, study the impact of those agreements on human rights and then assess their compatibility with the various international human rights instruments. Lastly, it should study the effects of competition between those companies and of the system of limited market share on the enjoyment of human rights and on the development choices of peoples, as well as their compatibility with international law in the matter of human rights, particularly with regard to the sovereignty of States and the right to development.

62. Ms. PROUVEZ (International Commission of Jurists), speaking also on behalf of the Lutheran World Federation and the World Organization against Torture, warmly welcomed the progress report on globalization and its impact on the full enjoyment of human rights (E/CN.4/Sub.2/2001/10). The previous year, those organizations had welcomed the adoption by the Sub-Commission of resolution 2000/7 on intellectual property rights and human rights, in which the Sub-Commission called on all Governments to give their human rights obligations

precedence over political and economic agreements. However, she noted that the two regimes were continuing to develop in parallel, with a risk that human rights might be marginalized as a result.

63. The human rights implications of the TRIPS Agreement had been studied both in the report of the United Nations High Commissioner for Human Rights (E/CN.4/Sub.2/2001/13) and in the report by the Special Rapporteurs (E/CN.4/Sub.2/2001/10). However, there was a need to go into the subject in greater depth and, in particular, to clarify the meaning and scope of certain articles of the Agreement whose application might be detrimental to certain rights, especially the rights enshrined in the International Covenant on Economic, Social and Cultural Rights, the rights of indigenous populations and the right to self-determination.

64. In addition, the WTO General Agreement in Trade in Services provided for the liberalization of the health and education sectors. States were required to guarantee the right to education, health and an adequate standard of living in accordance with international human rights instruments. The Sub-Commission should therefore again assert the primacy of government obligations in that regard, and encourage United Nations human rights bodies to look into the question.

65. The importance of the draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which was designed to give individuals an effective remedy at the international level, should also be emphasized. The workshop on the justiciability of economic, social and cultural rights, held in February 2001 by the Office of the High Commissioner for Human Rights in cooperation with the ICJ, International Commission of Jurists, had been highly significant in that regard and had led to the appointment by the Commission on Human Rights, in its resolution 2001/30, of an independent expert to examine the question of the Optional Protocol, including the creation of a working group on the subject. The non-governmental organizations she represented called on the Sub-Commission to remind the Commission that it should establish such a working group at its fifty-eighth session.

The meeting rose at 6.05 p.m.